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In re Application of
FOLESTAD, Staffan *et al*
Application No.: 09/806,795
PCT No.: PCT/SE01/00023
Int. Filing Date: 08 January 2001
Priority Date: 13 January 2000
Attorney Docket No.: 1103326-0660
For: METHOD AND APPARATUS FOR
MONITORING

DECISION

This decision is in response to applicants' "Petition for Withdrawal of Premature Office Action" filed via facsimile on 07 May 2002 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 08 January 2001, applicants filed international application PCT/SE01/00023 claiming priority to a Swedish patent application filed 13 January 2000.

On 04 April 2001, applicants filed a transmittal letter requesting entry into the national stage in the United States under 35 U.S.C. 371 at the expiration of the applicable time limit under PCT Articles 22 and 39(1) which was accompanied by, *inter alia*, a signed declaration, a check of \$1270.00 and authorization to charge Deposit Account No. 23-1703 for any additional fees.

On 19 July 2001, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, *i.e.*, 15 July 2002 (13 July 2002 was a Saturday).

On 17 December 2001, the United States Designated/Elected Office mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating that applicants completed the 35 U.S.C. 371 requirements on 04 April 2001.

On 10 April 2002, an Office Action Summary was mailed to applicants.

On 07 May 2002, applicants filed the instant petition via facsimile to withdraw the Office Action Summary as premature.

DISCUSSION

A review of the above-captioned application verifies that a timely Demand was filed in the underlying international application, PCT/SE01/00023. Moreover, applicants did not request express entry into the national stage pursuant to 35 U.S.C. 371(f) on the transmittal letter filed 04 April 2001.

Therefore, the provisions of PCT Article 39 and 37 CFR 1.495 apply. No processing of the national stage application is appropriate until the applicable time limit under PCT Article 39(1)(a). See PCT Article 40.1.


In this case, applicants have thirty-one months from the earliest claimed priority date to amend the Claims, Description and Drawings pursuant to PCT Article 41 and PCT Rule 78.1, i.e., 13 August 2002.


DECISION

For the reasons listed above, applicants' petition to withdraw any Office Action as premature is hereby GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed 17 December 2001 and the Office Action Summary mailed 10 April 2001 are both VACATED.

This application will be forwarded to the DO/EO/US for issuance of a new Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903). Then this application will be delivered to Technology Center 1700 for further processing in accordance with this decision.


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